

# EXHIBIT 5

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**From:** Christopher Binns <[cbinns@loeb.com](mailto:cbinns@loeb.com)>  
**Sent:** Wednesday, March 24, 2021 2:35 PM  
**To:** 'Stephen Vegh'  
**Cc:** [dmckinley@rmpartnerslaw.com](mailto:dmckinley@rmpartnerslaw.com); Adam Kelly  
**Subject:** RE: Chic v. P'ships, 20-cv-4806: Tomoloo/Gyroor Lists  
**Attachments:** Gyroor - Tomoolo List 3-3-2021 (20-cv-4806) (updated).xlsx

Counsel:

Attached is an updated spreadsheet. As an initial matter, Plaintiffs object to your characterization of a “piecemeal” approach to this litigation, especially where it was your clients that chose to both move to dismiss and to answer in this case. Thus, Plaintiffs cannot agree to pause discovery on all the Gyroor and Tomoloo Defendants when these Defendants have chosen to approach this litigation in two distinct ways.

As you will see in the attached there is no substantive difference from the information you were previously provided on March 3, 2021. Therefore we see no justification for a three-week extension of the discovery deadline, as you were in possession of the complete list of stores that relate to your clients. Regardless of whether your clients were on Schedule A or an affiliate, your clients are required to compile the requested sales figures which you agreed to produce. And as you are aware, without the sales figures, Plaintiffs cannot request a proportional freeze from Amazon (or any other third-party seller platform)—which we understand would be the basis of your potential request for relief from the Court. Nonetheless, we are willing to agree to a one-week extension to the discovery deadline to avoid any unnecessary motion practice.

Lastly, regarding the sufficiency of the arguments on the merits raised in your client’s Non-Infringement, Invalidity, and Unenforceability Contentions, Plaintiffs will provide its response under the Local Patent Rules in due time when required.

All the best,  
CB

**Christopher Binns**

LOEB & LOEB LLP | ATTORNEY AT LAW  
345 PARK AVENUE | NY, NY 10154  
(212) 407-4213 | [cbinns@loeb.com](mailto:cbinns@loeb.com)

**Christopher Binns**  
*Attorney At Law*



345 Park Avenue | New York, NY 10154

**Direct Dial:** [212.407.4213](tel:212.407.4213) | **Fax:** [646.349.1805](tel:646.349.1805) | **E-mail:** [cbinns@loeb.com](mailto:cbinns@loeb.com)

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**From:** Stephen Vegh <[svegh@veghlaw.com](mailto:svegh@veghlaw.com)>

**Sent:** Tuesday, March 23, 2021 11:03 PM

**To:** Christopher Binns <[cbinns@loeb.com](mailto:cbinns@loeb.com)>; Adam Kelly <[akelly@loeb.com](mailto:akelly@loeb.com)>

**Cc:** [dmckinley@rmpartnerslaw.com](mailto:dmckinley@rmpartnerslaw.com)

**Subject:** Fwd: Chic v. P'ships, 20-cv-4806: Tomoloo/Gyroor Lists

**Importance:** High

Counsel,

I'm reaching out to you once again to try to resolve the issue raised below that remains unresolved. As we'd discussed on our call a couple weeks ago, judicial economy and litigation efficiency would be promoted if Plaintiffs identified once and for all which of the storefronts accused of selling accused hoverboards are on the party Defendant "list" and which are on the non-Defendant, "frozen" storefront "list". If you provide this information, my client may then be able to (1) evaluate its settlement position in view of a potential global resolution, rather than piecemeal resolution; (2) provide information at the same time that shows which storefront accounts have been unreasonably restricted in excessive amounts, based on revenues attributable to accused product sales, thereby avoiding piecemeal motions to amend/vacate injunction orders; (3) streamline discovery so that responses are due from Defendants at the same time, rather than staggered. Unfortunately to date your office has not provided the two "lists".

Relatedly, the Tomoloo Answering Defendants believe there is not a likelihood of success on the merits to Plaintiffs' claims against the five Tomoloo Answering Defendants, for the reasons set forth in their Non-Infringement, Invalidity, Unenforceability Contentions. Also, the current deadline for the Tomoloo Answering Defendants to respond to Plaintiffs' discovery is next Monday, March 29. As mentioned above, it would make sense to have discovery due from all defendants at the same time. But in order for that to happen, we'd need to know who all the Defendants are on the Schedules to the Third Amended Complaint, which as mentioned Plaintiffs have not yet provided.

I would prefer to resolve these issues informally, without the need for Court intervention on piecemeal motions to amend/vacate preliminary injunction orders.

Defendants request Plaintiffs to confirm whether they'll turn over the requested "lists", and if so when. Also, will Plaintiffs agree to suspend the deadline for Tomoloo Answering Defendants to respond to discovery until the requested information has been provided? In the alternative, Tomoloo Answering Defendants request a three-week extension to respond to Plaintiffs' discovery. Please advise by the close of business March 25, 2021.

Thank you,

Stephen Vegh

----- Forwarded message from Stephen Vegh <[svegh@veghlaw.com](mailto:svegh@veghlaw.com)> -----

Date: Thu, 04 Mar 2021 17:43:49 -0500

From: Stephen Vegh <[svegh@veghlaw.com](mailto:svegh@veghlaw.com)>

Subject: Re: Chic v. P'ships, 20-cv-4806: Tomoloo/Gyroor Lists

To: Christopher Binns <[cbinns@loeb.com](mailto:cbinns@loeb.com)>

Cc: Danielle McKinley <[dmckinley@rmpartnerslaw.com](mailto:dmckinley@rmpartnerslaw.com)>, Adam Kelly <[akelly@loeb.com](mailto:akelly@loeb.com)>

Chris,

Which on your current list are Shedule "A" storefronts (Plaintiff has or may identify as party defendants in this matter) and which are what you've characterized as non-party "affiliate" storefronts (whose Amazon accounts Plaintiff has froze or may freeze shortly)? It's my understanding Runchengyun, Jiangyou-US, and Tomoloo-NX are Schedule A storefronts based on I believe Plaintiff's prior representations. I ask this because as a follow-up to our call the other day wherein we discussed how it may make sense to have a set response time for all party-defendants along with having any injunction modifications done at the same time rather than piecemeal.

Thanks for clarifying.

Stephen Vegh

Quoting Christopher Binns <[cbinns@loeb.com](mailto:cbinns@loeb.com)>:

I'm using Mimecast to share large files with you. Please see the attached instructions.

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Counsel,

Attached is a complete list of stores affiliated with Gyroor and Tomoloo as of March 3, 2021. As we discussed, if we find any additional stores, we will approach you prior to approaching Amazon. However, as you are aware, any additional requests to Amazon can be avoided if your client abides by the preliminary injunction order.

Also attached are copies of the infringing products for all stores except the ones listed below, which will be forthcoming in either a screen shot or a declaration from our client describing the infringing product that the client previously observed but which may no longer be available.

Gyroor:

Store Name	Amazon ID
zhonghongxin-us	A25PYSLZ5XW50W
honghaiya-us	AIFII05V4L3I3
shanchun-us	A2NUD2WSEZ9ZT
rongjiamao-yi-us	A2DA8CSKTCC66B
Urbanmax	A2YJ4WYCO1L51J

Tomoloo:

Store Name	Amazon ID
Smavt	A15KLREW50H5QW

All the best,

CB



Stephen Z. Vegh, Esq.  
1240 Rosecrans Ave. #120  
Manhattan Beach, CA 90266

Tel: (310)980-7440  
[www.veghlaw.com](http://www.veghlaw.com)  
[svegh@veghlaw.com](mailto:svegh@veghlaw.com)

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Stephen Z. Vegh, Esq.  
1240 Rosecrans Ave. #120  
Manhattan Beach, CA 90266

Tel: (310)980-7440  
[www.veghlaw.com](http://www.veghlaw.com)  
[svegh@veghlaw.com](mailto:svegh@veghlaw.com)

Gyroor Amazon			Gyroor eBay	
Seller Name	Schedule A/Affiliate	Amazon Merchant ID		
Runchenyun	Schedule A	AW9IVF0R92969	carrie_yux-5**	Schedule A
Gyroshoes	Affiliate	A2ARNHQ8SVCIBQ	mijia_store**	Schedule A
JIANGYOU-US**	Schedule A	A2WDDE8MIQH0TE	pauta60**	Schedule A
Gyroor**	Affiliate	AHGEGWXX7DCPQ	skateboardstore2012**	Schedule A
Fengchi-US**	Affiliate	A11ZZ2BGHTDJWC	smg-store**	Schedule A
GYROOR US**	Schedule A	A57BIIPQ5F3FT	strongjennie**	Schedule A
GaodeshangUS**	Affiliate	AYN6OZNVZ6M1Q	therealbeerguy**	Schedule A
hgsm**	Affiliate	A18SI7S9NCFNDA	2013tankstrong001**	Schedule A
Lison ET**	Affiliate	A2NLQKWD7CGXGK		
zhonghongxin-us	Affiliate	A25PYSLZ5XW50W		
honghaiya-us	Affiliate	AIFII05V4L3I3		
shanchun-us	Affiliate	A2NUD2WSEZ9ZT		
rongjiamaoyi-us	Affiliate	A2DA8CSKTCC66B		
Urbanmax**	Affiliate	A2YJ4WYCO1L51J		

**\*\* Indicates that the Accounts are frozen**

Tomoloo Amazon		
Seller Name	Schedule A/Affiliate	Amazon Merchant ID
TOMOLOO**	Schedule A	AID3SH3YPRL1E
TOMOLOO Franchise	Schedule A	A345B08PGN8LUO
TOMOLOO INE**	Schedule A	A2A3MNSAIX1437
TOMOLOO-US	Schedule A	A2FO3ELK9A4COF
Tomoloo Flagship	Schedule A	A1ZP3NP8NRL3DB
Tomoloo TC	Schedule A	A1DXERU83AK4IX
Tomoloo DX	Schedule A	A23EA08Y88EE4M
Tomoloo INT	Schedule A	A35351AV5611LB
TOMOLOO-AOX (Aoxtech)**	Affiliate	AXGAWQK8OGS24
TOMOLOO Offical	Schedule A	A22EGLUS9AQ3WA
TOMOLOO-NX**	Schedule A	AK2XZM4Y8NUHN
Better TOMOLOO**	Schedule A	A2UBVN107UWO9C
MANDOYOU	Affiliate	A1EWFJP84JPI5D
Smavt**	Affiliate	A15KLREW50H5QW

Tomoloo eBay	
digitalplus2018	Schedule B
liquidationdepotla	Schedule B

\*\* Indicates that the Accounts are frozen